

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL ACTION

VS. :

BAHAA DAWARA : CRIM. NO. 19-414

MEMORANDUM OF LAW

Movant is charged with Arson, Conspiracy to commit arson, Wire Fraud, Mail fraud and related offenses.

Movant was ordered detained pending trial by an order entered on October 22, 2019 wherein the court found movant was both a flight risk and danger to the community.

Having had an opportunity to review pretrial discovery provided to date, movant has learned of significant information contained within the discovery provided strongly tending to exculpate movant, particularly with respect to the specific government allegation that he set fire to 239-41 Chestnut Street on February 18, 2018.

Among the items of discovery are two reports of eyewitnesses who observed a black male flee westbound toward 3rd Street from the Revolution Diner front door at or about 3:00 a.m., contemporaneously with the first indication of a fire. Exhibit “D” accompanying this motion clearly evidences that movant is not a black male.

A video compilation prepared by the government portrays a white male proceeding on 2nd Street toward Market Street and entering a taxicab on Market Street. This portion of the video presumably intended to depict the arsonist making his “getaway,” is inconsistent with the person as described by both eyewitnesses and likewise inconsistent in terms of the described direction of travel by those witnesses since they described the supposed arsonist fleeing westbound toward

3rd Street from the fire scene while the white male is coming from 2nd Street, which is East of the fire scene.

Movant's detention has been ordered pursuant to 18 U.S.C § 3142(c). Movant seeks review of that order pursuant to 18 U.S.C § 3145 (b).

The grounds upon which movant seeks review are:

1. Movant is presumed innocent pursuant to 18 U.S.C § 3142(j);
2. In weighing the evidence, the court issuing the detention order was unaware that two eyewitnesses provided a description of the alleged arsonist inconsistent with movant's physical features;
3. The court issuing the detention order apparently did not give consideration to the history and characteristics of movant, as set forth in 18 U.S.C. § 3142(g)(3)(A):
 - a. full time employment;
 - b. family ties in the Eastern District of Pennsylvania;
 - c. owner of real estate in this District;
 - d. family willing to post real estate to secure movant's appearance;
 - e. long time residence in this District;
 - f. no prior convictions
 - g. no history of drug or alcohol abuse;
 - h. no history of failures to appear.

Respectfully submitted,

/s/ Gerald A. Stein

GERALD A. STEIN, ESQUIRE